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SEP 07 2004

OFFICE OF PETITIONS

In re Application of	:	
Shawn D. Rogers and William E. McKinzie	:	
Application No. 10/802,664	:	
Filed: March 17, 2004	:	DECISION ON PETITION UNDER
Attorney Docket No. 10599/130	:	37 C.F.R. §1.47(A)
Title: CIRCUIT AND METHOD FOR	:	
ENHANCED LOW FREQUENCY	:	
SWITCHING NOISE SUPPRESSION IN	:	
MULTILAYER PRINTED CIRCUIT	:	
BOARDS USING A CHIP CAPACITOR	:	
LATTICE	:	

This is in response to the petition under 37 C.F.R. §1.47(a)¹, filed August 2, 2004.

Petitioner entitled his petition "Petition under 37 C.F.R. §1.47(b) to accept application where all inventors are unavailable," included a declaration which has been signed by Mr. Rogers, and mentions only the attempts which were made to locate Mr. McKinzie. As such, it appears that this header was entered in error, and Petitioner intended to file a petition under 37 C.F.R. §1.47(a).

¹A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
 - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
 - b) proof that the non-signing inventor cannot be found or reached after diligent effort;
- (5) a declaration which complies with 37 CFR §1.63.

On March 17, 2004, the application was deposited without an oath or declaration, identifying Shawn D. Rogers and William E. McKinzie as joint inventors. On June 2, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring a fully executed oath or declaration in compliance with 37 C.F.R. §1.63 and the surcharge associated with the late submission of the same. The notice also indicated that the filing fee and additional claim fees were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has submitted the petition and filing fees, the surcharge, the additional claim fee, a statement of facts, and a copy of 2 facsimile transmissions which were sent from the non-signing inventor's attorney.

Petitioner has met requirements (1) – (2) and (4) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of the non-signing inventor².

Regarding the fifth requirement, the declaration is not in compliance with 37 C.F.R. §§1.63 and 1.64. First, the declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where the oath or declaration is being signed on behalf of an assignee, see MPEP 324³. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Although David T. Auckland has executed the declaration on behalf of the non-signing inventor and has listed his title as "Chief Technical Officer," Mr. Auckland has not listed the name of the corporation which he is an officer of.

Secondly, where an application is executed by one other than the inventor, the declaration required by 37 CFR §1.63 must state the full name, residence, post office address, and citizenship of the non-signing inventor.

For these reasons, the petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C §704.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner

² See MPEP 409.03(e).

³ 409.03(b).

may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail⁴, hand-delivery⁵, or facsimile⁶.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

⁴ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁵ Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

⁶ (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.